

RUSH MOORE LLP
A Limited Liability Law Partnership

CAROLINE S. OTANI 5854-0
737 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Tel. No. (808) 521-0432
FAX No. (808) 521-0497
E-mail: cotani@rmhawaii.com

Attorney for Defendant Bank of Hawaii

IN THE UNITED STATES DISTRICT FOR THE
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) Case No. CV08-000493 SOM KSC
)
Plaintiff,)
)
vs.) DEFENDANT BANK OF HAWAII'S
) ANSWER TO COMPLAINT TO REDUCE
) FEDERAL INCOME TAX ASSESSMENTS
MICHAEL WILLIAM FLAHERTY,) TO JUDGMENT AND TO FORECLOSE
MARGARET RONA LEE FLAHERTY, BANK) FEDERAL TAX LIENS ON REAL
OF HAWAII, THE STATE OF HAWAII,) PROPERTY; CERTIFICATE OF SERVICE
DEPARTMENT OF TAXATION,)
)
Defendants.)
)

DEFENDANT BANK OF HAWAII'S ANSWER TO COMPLAINT TO
REDUCE FEDERAL INCOME TAX ASSESSMENTS TO JUDGMENT
AND TO FORECLOSE FEDERAL TAX LIENS ON REAL PROPERTY

Comes now Defendant BANK OF HAWAII (hereinafter referred to as Defendant LENDER), and for answer to the complaint filed herein alleges and avers as follows:

FIRST DEFENSE

1. The complaint filed herein fails to state a cause of action upon which Plaintiff is entitled to relief as against Defendant LENDER;

SECOND DEFENSE

2. Defendant LENDER admits the allegations contained in Paragraph 8, 22 and 23;

3. Defendant LENDER is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in all other paragraphs, except that Defendant LENDER affirmatively alleges that its first mortgage dated May 12, 1993, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2025882 and its second mortgage dated September 9, 1993, recorded as aforesaid as Land Court Document No. 2070854 are valid first and second liens on the property described in said mortgages, prior to any lien or interest therein of Plaintiff or any other party;

4. Defendant LENDER hereby denies each and every allegation of said complaint not heretofore pleaded to in the foregoing paragraphs 1 through 3, inclusive, of this answer.

WHEREFORE, Defendant LENDER prays:

1. That the complaint filed herein be dismissed as against Defendant LENDER;

2. That if any judgment is entered in favor of Plaintiff, the lien and any judgment of Defendant LENDER be deemed superior to that of Plaintiff;

3. That if Plaintiff is authorized to foreclose its lien, that any purchaser or purchasers at a foreclosure sale,

including Plaintiff, take subject to the liens of Defendant LENDER; and that if the purchaser or purchasers of the property at the foreclosure sale do not pay off said Defendant LENDER's first and second mortgages in full, including all attorneys' fees and costs herein, then Defendant LENDER shall have the right to foreclose its first and/or second mortgages;

4. That Defendant LENDER be awarded attorneys' fees and costs incurred herein; and

5. For such other and further relief as this Court deems just and proper in the premises.

DATED: Honolulu, Hawaii, February 9, 2009.

/S/ CAROLINE S. OTANI
CAROLINE S. OTANI
Attorney for Defendant
BANK OF HAWAII

IN THE UNITED STATES DISTRICT FOR THE
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	Case No. CV08-000493 SOM KSC
)	
Plaintiff,)	CERTIFICATE OF SERVICE
)	
vs.)	
)	
MICHAEL WILLIAM FLAHERTY,)	
MARGARET RONA LEE FLAHERTY, BANK)	
OF HAWAII, THE STATE OF HAWAII,)	
DEPARTMENT OF TAXATION,)	
)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2009, copies of Defendant Bank of Hawaii's Answer to Complaint to Reduce Federal Income Tax Assessments to Judgment and to Foreclose Federal Tax Liens on Real Property filed herein on February 9, 2009 were duly served upon the following named parties in the manner listed below:

	<u>Mailed</u>	<u>CM/ECF</u>
JEREMY N. HENDON Tax Division U.S. Department of Justice P.O. Box 683, Ben Franklin Station Washington DC 20044-0683 Attorney for Plaintiff		X
MICHAEL WILLIAM FLAHERTY P.O. Box 1308 Kapaau, HI 96755 Defendant	X	
MARGARET RONA LEE FLAHERTY P.O. Box 1308 Kapaau, HI 96755 Defendant	X	

KRISTIE CRUZ CHANG
Department of the Attorney General-
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813
Attorney for Defendant
State of Hawaii, Department of Taxation

X

DATED: Honolulu, Hawaii, February 9, 2009.

/S/CAROLINE S. OTANI
CAROLINE S. OTANI
Attorney for Defendant
BANK OF HAWAII